

### **REMARKS / ARGUMENTS**

In response to the Final Office Action mailed July 14, 2003, in the above identified application, Applicants present a Request for Continued Examination and a rewritten slate of claims, and offer the following comments. This application is related to a composition which combats offensive odors upon application to a surface, said composition comprising a perfume suitable for masking unacceptable odors, in combination with specific surfactant/solubilizers which enable the use thereof in aqueous solution. The present invention is specific to the use of glycol ethers and glycol ethyl ethers in combination with hydrophobic fragrance oils in a water based formulation, but avoids volatile solubilizers such as glycols or monohydric alcohols, previously considered necessary to solubilize such hydrophobic fragrance materials. The presence of volatile organic compounds, or VOCs, such as low molecular weight alcohols, is undesirable, and the present invention limits their presence, providing an essentially non-VOC formulation which does not leave a stain or residue on fabric. The absence of volatile organic compounds is supported throughout the specification of this application as filed, for example at page 4, lines 2 - 5, page 4, lines 15 - 17, page 5, lines 21 - 24, page 6, lines 7 - 13, and elsewhere. Thus, the present invention avoids objectionable emissions which are regulated under state and federal air quality standards and staining, which are objectionable to the senses of consumers.

In the Final Rejection, the Examiner has rejected all Claims as unpatentable under 35 USC 103(a) over Nogami *et al.* (WO 98/56337) in view of Yuhas (US 4,226,889). Nogami *et al.* are said to teach an aqueous malodor reducing composition comprising at least 5 percent of a combination of amber and musk fragrance materials having C log P not less than 3.4, up to 35% surfactant, diethylene glycol as a non-volatile organic compound, alcohol ethoxylates, copper and zinc salt odor absorbers, and other adjunct materials. The patent also teaches a method for use of the composition, at a pH of 4. The Examiner has indicated that one of skill in the art would find it obvious to employ non-volatile solubilizing agents such as water or polyalkylene glycol (from the listing at page 7, lines 12 - 19 of the reference) of multiple possible agents

provided by the patent. Applicants believe that the choice of such specific materials as a solubilizing agent is neither taught nor made obvious by the reference in the absence of hindsight resulting from the present application. It must be noted that the text of the referenced paragraph states "some materials having faint odor are used as solubilizing agent", and that the exemplary materials include volatile materials such as C1-C4 monhydric alcohols. Thus, to specifically choose non-volatile solubilizing agents would not be obvious to one of ordinary skill in the art absent the motivation of the present application in light of the specific language of the cited reference.

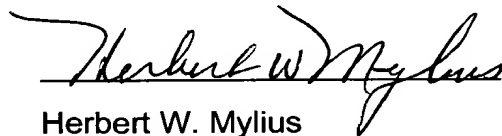
The Yuhas reference teaches a solid cosmetic composition comprising fragrance components such as the floral and the spicy groups, said solid compositions prepared from concentrates of the perfume in a solvent such as water or alcohol. The Examiner indicates that one of ordinary skill in the art would be motivated to use the fragrances of Yuhas in the compositions of Nogami *et al.* Applicants take exception to this conclusion, believing it to be based on hindsight just as the citation of the Nogami *et al.* reference is. It is to be noted that the composition of Yuhas comprises a solid material in which perfume is present, and the teaching of the reference is merely that perfumes are generally supplied as solutions in a water or alcohol base. Since the purpose of most perfumes is to volatilize, it must be assumed that the solvent most likely to be chosen by Yuhas would be a volatile organic compound such as an alcohol. This is in direct opposition to the purpose of the present invention, which is to limit the presence of volatile organic compounds. Accordingly, it would not be obvious to one of ordinary skill in the art to select water (the non-volatile solvent of Yuhas) as the solubilizing agent of the Nogami *et al.* reference.

Accordingly, Applicants have herewith presented a newly written slate of claims for purposes of clarification of the distinctions between the present invention and the prior art, which specifically emphasize the use of non-volatile organic compounds as surfactant/solubilizer and solvent/drying aids, and clearly indicate the use of hydrophobic perfumes. It is submitted that the references of record fail to teach or make obvious this combination of materials as set forth by the Claims of this application.

Further, with respect to the Nogami et al. reference, it is noted that while the reference does indicate the use of musk and amber fragrances, which are hydrophobic, these compositions are outside the type of fragrance components considered suitable for use in the present invention, and would not be an obvious choice for use therein. The use of a heavy material, such as more than 5 percent of an odor masking composition comprising a combination of musk and amber, is to be contrasted with the present invention, wherein a light fragrance is present in an amount not to exceed 1.0 percent, and is accompanied by up to 5% of an odor absorber (a water soluble metal salt). Moreover, the odor absorbing material of the present invention is neither taught nor suggested by the patent. Thus, the Nogami et al. composition functions to combat odor in an entirely different manner than does the present invention.

Respectfully submitted,  
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